

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Rainer HILLEBRAND

Conf. No.: 8449

Application No.: 10/524,655

Art Unit: 2169

Filed: February 17, 2005

Examiner: Kim T. Nguyen

For: METHOD FOR TESTING BROWSER-
ADAPTING SERVER APPLICATIONS

APPELLANT'S BRIEF ON APPEAL UNDER 37 C.F.R. § 41.37

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant submits this Brief in accordance with 37 C.F.R. § 41.37 in support of its appeal from the Final Office Action, mailed March 31, 2008 by Examiner Kim T. Nguyen, and the Advisory Action, mailed June 16, 2008, in the above-identified patent application.

In accordance with 37 C.F.R. §§ 41.31 and 41.37, this brief follows the July 29, 2008 filing of a Notice of Appeal and payment of the required fee. Appellant submits that this Appeal Brief is timely filed and is accompanied by the appropriate fee. The filing of this Appeal Brief requires no extension of time fee. However, the Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this Appeal Brief, or to credit any overpayment, to Deposit Account No. 04-0100.

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is T-Mobile Deutschkand GMBH, Bonn, Germany. The inventor having assigned his rights in and to this application to T-Mobile Deutschkand GMBH, such assignment having been duly recorded.

II. RELATED APPEALS AND INTERFERENCES

To appellant's knowledge, there are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 5-24 are pending in the application.

This appeal is in respect of the rejection of claims 5-24.

There are 20 claims pending in the application, *i.e.*, claims 5-24. They are reproduced in the **Claims Appendix**. The current status of the application's claims is as follows:

1. Claims canceled: 1-4;
2. Claims withdrawn from consideration but not canceled: none;
3. Claims pending: 5-24;
4. Claims allowed: none;
5. Claims rejected: 5-24.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the mailing of the March 31, 2008 Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The claimed invention is directed to a method for testing a browser-adapting server application of a server. A method for testing a browser-adapting server application includes collecting and recording, using another server application, key information of a number of browser types and/or versions. The information adaptation method of the browser-adapting server application is tested using the key information. (Specification ¶0008)

Independent method claim 5 is directed to “a method for testing a browser-adapting server application of a server,” and recites the steps of “collecting and recording, using another server application of the server, respective key information of a plurality of browser types and/or versions” (Specification ¶0008), and “testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers,” (Specification ¶¶0008-0009).

Independent method claim 16 is directed to “a method for testing a browser-adapting server application of a server,” and recites the steps of “a first browser transmitting a first key information to a first server application of the server,” (Specification ¶0008), “the first server application storing the transmitted first key information in a storage medium,” (Specification ¶0009), “the browser-adapting server application of the server obtaining a second key information regarding a second browser,” (Specification ¶¶0010) “the browser-adapting server application of the server comparing the second key information with the stored first key information,” (Specification ¶0008), and “determining if modifications to the browser-adapting server application of the server are necessary based on the comparison result so as to ensure that the browser-adapting server application functions properly with each of the first and second browsers,” (Specification ¶0004).

Independent method claim 22 recites subject matter similar to independent claim 5 (“collecting and recording, using another server application, respective key information of a plurality of browser types and/or versions” and “testing an information adaptation method of the browser-adapting server application using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers”). Independent claim 22 further recites that “the key information comprises at least a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser,” (Specification ¶¶0003, 0008).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1) Whether U.S. Patent No. 6,073,241 to Rosenberg et al. (“Rosenberg”) discloses each and every element of claims 16-19 , as required under 35 U.S.C. § 102(b).

2) Whether claims 5-15 and 20-24 can properly be rejected as obvious under 35 U.S.C. § 103(a) based on the combination of Rosenberg and U.S. Patent No. 6,167,441 to Himmel.

VII. ARGUMENT

Grounds of Rejection No. 1: Anticipation Rejection of Claims 16-19 based on Rosenberg et al.

Rosenberg describes an apparatus and method for tracking world wide web browser requests across distinct domain names using cookies. (Rosenberg, Abstract.) The method includes the step of identifying a first request from a first browser at a first server computer and assigning the browser a unique identification code, conveying the unique identification code to a second server having a different domain name, and associating a future request by the same web browser to the second server via the identification code, so as to track a web browser across distinct domains in the world wide web. (Rosenberg, Abstract.) The purpose of Rosenberg’s apparatus and method is to

track a web browser associated with a user, to identify content preferences and interests of that individual user.

Rosenberg describes a method that includes the step of identifying a first request from a first browser at a first server computer and assigning the browser a unique identification code, conveying the unique identification code to a second server having a different domain name, and associating a future request by the same web browser to the second server via the identification code, so as to track a web browser across distinct domains in the world wide web. *See Rosenberg*, column 3, lines 11 to 24. The purpose is to track a web browser associated with a user, to identify content preferences and interests of that individual user. *See Rosenberg*, column 3, lines 11 to 24.

Independent claim 16 of the present application recites the steps of

- a first browser transmitting a first key information to a first server application of the server;
- the first server application storing the transmitted first key information in a storage medium;
- the browser-adapting server application of the server obtaining a second key information regarding a second browser;
- the browser-adapting server application of the server comparing the second key information with the stored first key information; and
- determining if modifications to the browser-adapting server application of the server are necessary based on the comparison result so as to ensure that the browser-adapting server application functions properly with each of the first and second browsers.

It is respectfully submitted that Rosenberg does not teach a single server, having a first server application and a browser-adapting server application, as recited in claim 16. In contrast, Rosenberg describes the use of a plurality of servers, a first server 24A and a second server or set of servers B 248. *See Rosenberg*, column 7, line 62 to column 8, line 6. Nor does Rosenberg teach first and second browsers, as recited in claim 16. In contrast, Rosenberg describes merely one browser, not two. *See Rosenberg*, column 5, lines 1 to 5. Rosenberg describes a method of setting a cookie wherein the second server determines if a cookie has already been set, and if so, the second

server overwrites the first cookie. *See* Rosenberg, column 6, lines 25 to 47. Nowhere does Rosenberg disclose a first browser transmitting a first key information to a first server application of the server, the browser-adapting server application of the server obtaining a second key information regarding a second browser, or the browser-adapting server application of the server comparing the second key information with the stored first key information, as recited in claim 16.

The present claimed invention, thus, relates to a method of testing a browser-adapting application of a server, so as to improve adaptation of information-providing server applications of the server to the capabilities of different browser types and versions of the many different browser application types and versions that may be used with the server application. Rosenberg, in contrast, relates to tracking individual users across different domains in order to identify their content preferences and interests.

Claims 17-19 from claim 16. Dependent claims 17-19 are patentable over Rosenberg for at least the same reasons as their base claim. Therefore, for the reasons stated above, Appellant respectfully submits that Rosenberg does not disclose each and every feature of claims 16-19, and therefore cannot anticipate these claims.

Grounds of Rejection No. 2: Obvious rejection of claims 5-15 and 20-24 based on
a combination of Rosenberg and Himmel

Himmel describes the use of a server application called an agent, which detects the capabilities of a particular client device. *See* Himmel, column 2, lines 25 to 32 and column 5, lines 31 to 36. Depending upon client device capability, the client request to the server is selectively redirected to a version of the requested file or webpage which the client is capable of displaying or downloading. *See* Himmel, column 2, lines 32 to 35 and column 4, lines 42 to 54. The agent detects the client device by reading the client browser type from the header information contained in the client request, and the server then transmits the appropriate webpage to the client. *See* Himmel, column 5, lines 52 to 56 and column 7, lines 38 to 39. Further, Himmel discloses, at column 5,

lines 51-61 and column 6, lines 43-66, the need to know the “client browser type,” or “operating system in use,” or “to identify the client using the HTTP header information.”

Independent claims 5 and 22 of the present application recite “a method for testing a browser-adapting server application of a server” and each recite the step of “testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers.” As noted in the March 31, 2008 Final Office Action, at page 4, Rosenberg does not disclose such a step. It is respectfully submitted that Himmel also does not disclose or suggest this feature. Specifically, Himmel does not “test[] an information adaptation method of the browser-adapting server application.” In contrast, Himmel merely describes selecting a webpage customized for use with a particular known browser type, based upon browser information detected by the agent. *See* Himmel, column 7, lines 18 to 26 and lines 55 to 63. The selection in Himmel is performed using a database of known browser types. *See* Himmel, column 8, lines 48 to 50. Himmel does not disclose or suggest testing an information adaptation method of the browser-adapting server application of the server, or any other step “so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers.” As such, it is respectfully submitted that Rosenberg and Himmel, individually and in combination, fail to disclose or suggest each and every feature recited in independent claims 5 and 22. Therefore, a combination of Rosenberg and Himmel, to the extent proper, could not render claims 5 and 22, along with dependent claims 6-15, 20, 23, and 24, obvious.

Claim 21 depends from claim 16, and therefore incorporates the features of claim 16. As discussed above, it is respectfully submitted that Rosenberg does not disclose the steps of a first browser transmitting a first key information to a first server application of the server, the browser-adapting server application of the server obtaining a second key information regarding a second browser, and the browser-adapting server application of the server comparing the second key information with the stored first key information, as recited in independent claim 16. It is also respectfully submitted that Himmel does not disclose these features. Himmel describes merely the

use of one browser, and does not disclose comparing the second key information with the stored first key information. As such, it is respectfully submitted that Rosenberg and Himmel, individually and in combination, fail to disclose or suggest each and every feature recited in independent claim 16, and a therefore combination of Rosenberg and Himmel, to the extent proper, could not render dependent claim 21 obvious.

For all of the reasons set forth above, the rejections of claims 5-24 should be reversed. Appellant respectfully requests that the application be remanded to the Primary Examiner with an instruction to withdraw the rejections, and pass the case to allowance.

Dated: September 23, 2008

Respectfully submitted,

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APPENDIXES

CLAIMS APPENDIX

The following is a copy of the claims involved in the appeal:

Claim 5 (previously presented): A method for testing a browser-adapting server application of a server, the method comprising:

collecting and recording, using another server application of the server, respective key information of a plurality of browser types and/or versions; and

testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers.

Claim 6 (previously presented): The method as recited in claim 5 further comprising adapting the browser-adapting server application so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers.

Claim 7 (previously presented): The method as recited in claim 5 further comprising evaluating first respective key information of a first information-requesting browser type so as to adapt the browser-adapting server application.

Claim 8 (previously presented): The method as recited in claim 7 further comprising directly or indirectly obtaining the respective key information of the information-requesting browser type.

Claim 9 (previously presented): The method as recited in claim 5 further comprising transmitting the key information to the browser-adapting server application.

Claim 10 (previously presented): The method as recited in claim 6 further comprising comparing first information returned by the another server application to second

information returned by the another server application before the adapting of the browser-adapting server application.

Claim 11 (previously presented): The method as recited in claim 7 further comprising comparing first information returned by the another server application to second information returned by the another server application before the adapting of the browser-adapting server application.

Claim 12 (previously presented): The method as recited in claim 5 further comprising providing a database configured to provide the respective key information for the another server application.

Claim 13 (previously presented): The method as recited in claim 9 further comprising providing a database configured to provide the respective key information for the another server application.

Claim 14 (previously presented): The method as recited in claim 10 further comprising providing a database configured to provide the respective key information for the another server application.

Claim 15 (previously presented): The method as recited in claim 11 further comprising providing a database configured to provide the first respective key information for the another server application.

Claim 16 (previously presented): A method for testing a browser-adapting server application of a server, the method comprising the steps of:

a first browser transmitting a first key information to a first server application of the server;

the first server application storing the transmitted first key information in a storage medium;

the browser-adapting server application of the server obtaining a second key information regarding a second browser;

the browser-adapting server application of the server comparing the second key information with the stored first key information; and

determining if modifications to the browser-adapting server application of the server are necessary based on the comparison result so as to ensure that the browser-adapting server application functions properly with each of the first and second browsers.

Claim 17 (previously presented): The method as recited in claim 16, further comprising the step of:

modifying the browser-adapting server application for the second browser in response to the second key information; and

determining if the modifications to the browser-adapting server application will affect the first browser.

Claim 18 (previously presented): The method as recited in claim 16, wherein the step of the browser-adapting server application obtaining a second key information regarding a second browser comprises:

a second browser transmitting the second key information to the first server application; and

the first server application storing the transmitted second key information in the storage medium; and

the browser-adapting server application receiving the stored second key information from the storage medium.

Claim 19 (previously presented): The method as recited in claim 16, wherein the step of the browser-adapting server application obtaining a second key information regarding a second browser comprises:

a second browser transmitting the second key information to the browser-adapting server application.

Claim 20 (previously presented): The method as recited in claim 5, wherein the key information comprises at least one of a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser.

Claim 21 (previously presented): The method as recited in claim 16, wherein the key information comprises at least a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser.

Claim 22 (previously presented): A method for testing a browser-adapting server application, the method comprising:

collecting and recording, using another server application, respective key information of a plurality of browser types and/or versions; and

testing an information adaptation method of the browser-adapting server application using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers,

wherein the key information comprises at least a type of the respective browser, a version of the respective browser, languages supported by the respective browser, file formats supported by the browser, and graphic formats supported by the browser.

Claim 23 (previously presented): The method as recited in claim 22 further comprising adapting the browser-adapting server application so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers.

Claim 24 (previously presented): The method as recited in claim 22 further comprising evaluating first respective key information of a first information-requesting browser type so as to adapt the browser-adapting server application.

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EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings for this matter.